

1 monitoring stations. I have never looked at  
2 their charter to see exactly what their  
3 specific duties are. But you know that's a  
4 lot of spectrum for any one individual to  
5 police.

6 Q From your knowledge of the culture  
7 of amateur radio do you believe that amateurs  
8 are vigilant in policing the frequencies?

9 A Certainly a sector of the HAMS are.  
10 I think the leadership of the community  
11 definitely are.

12 Those of us for example that were  
13 involved in the WWARA, the relay association  
14 we specifically had a role in monitoring for  
15 interference and other types of complaints.  
16 Does the general population, I'd be less  
17 inclined to speculate that way.

18 Q How likely do you think it would be  
19 that if someone attempted to solicit a minor  
20 to engage in immoral conduct using the amateur  
21 frequencies that that incident would be  
22 reported to the authorities?

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1           A       I think it's probably --

2           MS. LANCASTER:     Your Honor, I  
3     object.

4           JUDGE SIPPEL:     What, what do you  
5     object to?

6           MS. LANCASTER:     Again, this is  
7     speculation.   He doesn't know if somebody  
8     would report that or not.

9           Again it's going to depend on the  
10    language that's used and besides that their  
11    unlikely to do it over a widely traveled  
12    frequency.   You know they're not going to do  
13    where they think they can be heard if it's  
14    going to be specific.

15          JUDGE SIPPEL:     Would you stipulate  
16    to that.   Do you want to stipulate to that.

17          MS. LANCASTER:     No, I'm not going  
18    to stipulate to anything because it's all  
19    speculative.

20          JUDGE SIPPEL:     Well, I think that's  
21    why you have this witness to try and clear up  
22    some of this otherwise speculative aspects of

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1 this practice, whatever it is, this culture.  
2 Go ahead, you may answer the question. Do you  
3 remember it or we'll have it repeated for you.

4 THE WITNESS: Can you restate the  
5 question please?

6 BY MR. LYON:

7 Q Sure, my question was based upon  
8 your knowledge of the culture of amateur radio  
9 if there were an incident where someone  
10 attempted over the air to entice a minor to  
11 engage in immoral conduct how likely do you  
12 think that that would be reported to the  
13 appropriate authorities?

14 A I'd say it depends on -- it truly  
15 depends on who's listening and I think some  
16 people step up and take a leadership role in  
17 this kind of activity and others are just  
18 hangers on and that you know you could drop a  
19 bomb on them and they wouldn't notice.

20 I would say it's -- I don't know  
21 what kind of percentage to attribute to that  
22 or anything. It's truly a matter of who the

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1 operator is that heard it, what they heard.  
2 I don't know.

3 Q Well it is fair to say isn't it  
4 that certainly on a repeater there is bound to  
5 be a number of people listed at any one time.  
6 Isn't that right, sir?

7 A It's certainly possible. There's  
8 a lot of times there's nobody listening.

9 JUDGE SIPPEL: Well I understood  
10 your testimony to be earlier that there was  
11 most of the time there were people listening.  
12 It would only be on the very off hours it  
13 wouldn't be anybody listening. Did I hear  
14 that right?

15 THE WITNESS: Well I think -- you  
16 know in the Puget Sound area for example we  
17 have 400 repeaters. And so is somebody  
18 specifically listening to any specific  
19 repeater at any given time? It's hard to  
20 know.

21 I think the busier repeaters are  
22 the more wide coverage repeaters generally

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1 have somebody monitoring them at all times.  
2 Some of the lesser used repeaters might not  
3 have that be the case.

4 BY MR. LYON:

5 Q And sir it's true is it not that  
6 the repeater that Mr. Titus operates had wide  
7 coverage in your opinion?

8 A Yes sir, it has very good coverage.

9 Q So it's likely then isn't it that  
10 someone would be monitoring Mr. Titus'  
11 repeater most of the time isn't it?

12 A I would assume at least during  
13 those high traffic times of the day, during  
14 the morning commute and afternoon commute that  
15 yes, someone probably is listening to that  
16 repeater.

17 Q Now sir, you have no information  
18 that Mr. Titus has ever used amateur radio to  
19 commit a crime, correct?

20 A Absolutely not.

21 Q Okay, and you've never heard Mr.  
22 Titus --

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1 MS. LANCASTER: Your Honor, I'm  
2 going to object. He's already asked the same  
3 line of questions.

4 MR. LYON: No, I asked them in a  
5 different way, Your Honor.

6 JUDGE SIPPEL: This is cross-  
7 examination. I'm giving him leeway on cross-  
8 examination. This goes to the heart of what  
9 he's charged with, the reason for his -- the  
10 questioning his license, FCC licensing is  
11 because this could facilitate his carrying on  
12 this illegal conduct. This is right down the  
13 middle of the relevance.

14 MS. LANCASTER: Yes sir, he's just  
15 already asked him.

16 JUDGE SIPPEL: He can do that.  
17 It's cross-examination it's not harassing the  
18 witness.

19 You don't feel harassed do you Mr.  
20 Schurman?

21 THE WITNESS: No, Your Honor.

22 JUDGE SIPPEL: Thank you.

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1 BY MR. LYON:

2 Q All right, let me repeat the  
3 question. You may have forgotten it in the  
4 meantime. Sir, you have no information that  
5 Mr. Titus has ever used amateur radio in the  
6 commission of a crime, correct?

7 A No.

8 Q Okay, and you've never heard Mr.  
9 Titus solicit someone underage to have sex  
10 have you?

11 A No.

12 Q Okay, and you have no information  
13 that he has ever used amateur radio to solicit  
14 someone underage to have sex, correct?

15 A No, that's correct.

16 Q You've never heard Mr. Titus on the  
17 air trying to meet someone who was underage  
18 have you?

19 A No.

20 Q And you have no information that he  
21 has ever used a amateur radio to try to meet  
22 someone underage?

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1 A No.

2 Q Is it -- sir, would it surprise you  
3 to know that most released sex offenders in  
4 the State of Washington do not reoffend after  
5 release from confinement?

6 MS. LANCASTER: Objection Your  
7 Honor, no foundation.

8 JUDGE SIPPEL: I'll sustain that.

9 BY MR. LYON:

10 Q Mr. Schurman, do you have any  
11 opinion as to the incidents of recidivism  
12 among released sex offenders?

13 MS. LANCASTER: Objection, Your  
14 Honor.

15 JUDGE SIPPEL: Sustained.

16 MS. LANCASTER: Thank you.

17 BY MR. LYON:

18 Q Mr. Schurman, are you aware that  
19 Mr. Titus' last charged offense was when he  
20 was 18 years old?

21 A I believe that's what I read, yes.

22 Q And that was 16 years ago wasn't

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1 it?

2 A Could be.

3 Q Do you know whether that Mr. Titus  
4 has been charged with any subsequent offense  
5 in the last 16 years?

6 A I have no knowledge of that.

7 Q Assuming that Mr. Titus has not  
8 been charged with another offense between the  
9 last 16 years does that have any effect upon  
10 your concern?

11 MS. LANCASTER: Objection Your  
12 Honor, the evidence I believe will show Mr.  
13 Titus has been charged --

14 JUDGE SIPPEL: I'll sustain, I'll  
15 sustain, I'll sustain.

16 MS. LANCASTER: He's been charged.  
17 He may not have another conviction but he's  
18 been charged.

19 JUDGE SIPPEL: Wait a minute, wait  
20 a minute. Don't talk to the lawyer --

21 MS. LANCASTER: I'm sorry, Your  
22 Honor.

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1 JUDGE SIPPEL: -- talk to me.

2 MR. LYON: Excuse me Your Honor, he  
3 hasn't been charged with anything during the  
4 last 16 years.

5 JUDGE SIPPEL: Well --

6 BY MR. LYON:

7 Q Sir, you've worked with upwards of  
8 1,000 children in connection with amateur  
9 radio?

10 A Yes.

11 Q Is it fair to say that not one of  
12 them has ever suggested to you that David  
13 Titus has sought to molest them?

14 A I've certainly not had that come  
15 up, no.

16 Q And is it fair to say that not one  
17 of them has suggested to you that David Titus  
18 has tried to meet them?

19 A To the best of my knowledge, no.

20 MR. LYON: I don't have anything  
21 further.

22 MS. LANCASTER: I have a few

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1 questions, Your Honor.

2 JUDGE SIPPEL: Go ahead.

3 REDIRECT EXAMINATION

4 BY MS. LANCASTER:

5 Q Mr. Schurman, you're familiar with,  
6 I believe we discussed earlier ARRL, the  
7 organization?

8 A Correct.

9 Q And they are adults and minors who  
10 belong to that organization and that attend  
11 their functions. Is that correct?

12 A That's very true.

13 Q Would you be surprised if Mr. Titus  
14 were a member of that organization?

15 MR. LYON: Objection.

16 JUDGE SIPPEL: What's the purpose  
17 of this question?

18 MS. LANCASTER: Because he said  
19 that Mr. Titus -- in his questioning earlier  
20 he said that Mr. Titus is not a member of any  
21 of these organizations.

22 MR. LYON: I don't think that's

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1        what he said, Your Honor.

2                    MS. LANCASTER: No you said.

3                    JUDGE SIPPEL: I'm going to allow  
4        the question. But I'm -- go ahead.

5                    BY MS. LANCASTER:

6                    Q        You would not be surprised that he  
7        is a member of that organization are you?

8                    A        Not at all.

9                    Q        Okay.

10                   A        Most -- the majority of the HAMS  
11        are members of the ARRL.

12                   Q        Mr. Schurman, can you say with any  
13        certainty whether another radio operator would  
14        respond or report criminal activity that they  
15        overheard on a frequency?

16                   A        It's hard to speculate on what  
17        other HAMS would do. I would think that --  
18        you know I can speak for myself. If I heard  
19        a felony being commissioned over the air I  
20        would certainly take action.

21                   But I believe I'm in a leadership  
22        role. Whether others would or not I can't

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1 speculate.

2 Q When you were asked about, I  
3 believe the Judge asked you about frequencies  
4 being monitored at all times. How many radio  
5 frequencies are there, amateur radio  
6 frequencies?

7 A It's nearly insolent because we  
8 don't channelize the entire spectrum available  
9 to us. But it's literally thousands of  
10 channels.

11 Q Okay, and the person or persons who  
12 -- in your experience is it the -- strike  
13 that. In your experience who would be  
14 monitoring a repeater frequency?

15 A Typically the repeater owner and or  
16 control operators designated by the repeater  
17 would.

18 Q So based on your experience would  
19 Mr. Titus be the most likely monitor of his  
20 repeater frequency?

21 MR. LYON: Objection, the question  
22 used the word monitor as if there would only

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1 be one and therefore assumes facts that are  
2 not proven or that are not yet in evidence.

3 JUDGE SIPPEL: It's narrow, but can  
4 you just rephrase it a little bit Ms.  
5 Lancaster.

6 BY MS. LANCASTER:

7 Q Is Mr. Titus likely to be a monitor  
8 of his repeater frequency?

9 A Yes, very much so.

10 Q Are most simplex frequencies  
11 monitored?

12 A I would guess no unless you have  
13 made arrangements to meet a specific operator  
14 as a specific simplex frequency at a specific  
15 time I would doubt there's anyone monitoring  
16 them.

17 Q In your experience based on all  
18 your years of amateur radio is it likely that  
19 someone who wants to plan a criminal act, is  
20 it likely that they will do it on a repeater  
21 frequency?

22 A Probably not.

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1           Q     Is that because those are the  
2 frequencies that are most monitored?

3           A     Absolutely.

4           Q     And if you want -- in your  
5 experience, assuming you wanted to do this, if  
6 you wanted to meet a minor what actions would  
7 you take to get them away from that particular  
8 frequency?

9           JUDGE SIPPEL: I don't think this  
10 witness is qualified to answer that question.

11          MS. LANCASTER: He can --

12          JUDGE SIPPEL: Do you feel  
13 qualified to answer that Mr. Schurman?

14          THE WITNESS: I'm afraid I don't,  
15 Your Honor.

16          MR. LYON: I will object on the  
17 basis that it's hypothetical and speculative.

18          BY MS. LANCASTER:

19          Q     Mr. Schurman, does someone who is  
20 connected with the amateur radio emergency  
21 service, do they have any greater access to  
22 the public than any other radio operator?

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1 A No.

2 MR. LYON: Objection.

3 JUDGE SIPPEL: He answered the  
4 question.

5 BY MS. LANCASTER:

6 Q Mr. Schurman, is it common for  
7 people who meet on a repeater frequency to  
8 move to another frequency like a simplex  
9 frequency to have a more private conversation?

10 A Absolutely, and if it were a  
11 conversation, you know there are certain kinds  
12 of communications that are specifically  
13 restricted in the Part 97 rules.

14 If I were to want to talk about  
15 business for example we might call on the  
16 amateur radio and then make arrangements for  
17 either a land link or cell phone call to  
18 discuss our prohibited communication.

19 MS. LANCASTER: One moment, Your  
20 Honor please.

21 BY MS. LANCASTER:

22 Q Mr. Schurman, I believe you in



1 response to Mr. Lyons questions stated that  
2 you were unaware of any misconduct, specific  
3 misconduct by Mr. Titus other than what you  
4 had seen on the police website about his  
5 convictions. Is that a correct restatement of  
6 your testimony?

7 A Yes.

8 Q Did that have any effect whatsoever  
9 on your concern that led you to help draft the  
10 letter at Exhibit 8?

11 MR. LYON: Objection, Your Honor.  
12 I think it goes beyond the scope of cross and  
13 I think we covered --

14 JUDGE SIPPEL: I will sustain the  
15 objection.

16 BY MS. LANCASTER:

17 Q Did it have any effect on your  
18 sending a warning to your club members?

19 MR. LYON: Objection.

20 JUDGE SIPPEL: Wait a minute,  
21 what's the preference on that.

22 MS. LANCASTER: Not knowing of any

1 conduct by Mr. Titus, only being aware of his  
2 convictions as a sex offender. Did -- the  
3 fact that he didn't know of any misconduct did  
4 that have any -- did that make him not want to  
5 send the warnings to his members.

6 MR. LYON: Same objection, Your  
7 Honor.

8 JUDGE SIPPEL: Yes, I will sustain  
9 it.

10 MS. LANCASTER: Okay, I have  
11 nothing further, Your Honor.

12 JUDGE SIPPEL: Okay.

13 MR. LYON: Short recross, Your  
14 Honor.

15 JUDGE SIPPEL: Go ahead.

16 RECROSS EXAMINATION

17 BY MR. LYON:

18 Q Mr. Schurman, you wrote the -- or  
19 you helped write the letter to Senator  
20 Cantwell because you were principally  
21 concerned with Mr. Titus' operation of a  
22 repeater?

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1           A     Well that was certainly part of the  
2     concern. I mean just --

3           Q     That's what you said in the letter.

4           A     -- the fact that he was a licensee  
5     was of concern.

6           Q     Well --

7                     JUDGE SIPPEL: Direct him to the  
8     exact language. Be careful though. I'm not  
9     going to warn you, but this is getting closer  
10    and closer to being in evidence for all  
11    purposes.

12                  MR. LYON: Yes, I'll --

13                  JUDGE SIPPEL: I'm talking about  
14    Exhibit 8.

15                  MR. LYON: I'll drop it at this  
16    point.

17                  BY MR. LYON:

18           Q     Counsel for the Bureau asked you  
19    the question about reporting criminal  
20    misconduct and whether you -- and I don't  
21    purport to repeat your testimony but just to  
22    draw your attention to it. Counsel for the

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1 Bureau asked you the question about whether  
2 you thought criminal conduct over the air  
3 would be reported.

4 Do you think most amateurs would  
5 report such conduct?

6 MS. LANCASTER: Your Honor, I think  
7 he -- I object because he's already stated he  
8 can answer for himself. He can't answer for  
9 other amateurs.

10 JUDGE SIPPEL: I'll sustain. I'll  
11 sustain the objection.

12 BY MR. LYON:

13 Q With respect to the question that  
14 Bureau counsel asked you about whether Mr.  
15 Titus would likely be monitoring his repeater  
16 my question is would there likely be other  
17 people monitoring the repeater?

18 A Well, certainly I guess it's hard  
19 to believe any one individual would monitor  
20 all the time, it would delegate that  
21 responsibility to others for certain periods  
22 of time.

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1           Q     But let me go beyond that though  
2           and ask you this question. This is a widely  
3           used repeater in the Seattle area isn't it?

4           JUDGE SIPPEL: What's this?

5           MR. LYON: I'm sorry.

6           BY MR. LYON:

7           Q     The repeater that Mr. Titus  
8           operates. It has wide coverage, right?

9           A     It has wide coverage, yes sir.

10          Q     And having wide coverage, it's  
11         widely used isn't it?

12          A     I can't speak to that because I  
13         don't monitor it myself.

14          Q     I think you stated elsewhere that  
15         it was a popular repeater, didn't you?

16          A     No, I think I stated that it has  
17         wide coverage.

18          JUDGE SIPPEL: All right, let's  
19         leave it at that because otherwise we're going  
20         to have to go back and show him his testimony,  
21         and I don't want to do that.

22          MR. LYON: Okay.

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1 BY MR. LYON:

2 Q But we can say this, that it was on  
3 a recommended list at one time for your club?

4 A At one time it was on a recommended  
5 list of repeaters that our club had published.

6 Q Okay, now counsel also asked you  
7 the question about the ARRL. That's a  
8 national organization isn't it?

9 A Yes, that's a national  
10 organization.

11 Q Sort of like a National Rifle  
12 Association for amateurs?

13 A I would guess so. That would be a  
14 good parallel.

15 MR. LYON: All right, no further  
16 questions.

17 JUDGE SIPPEL: Do you know --  
18 there's a Mr. Miller who was contacting us  
19 this morning and he wanted to come and listen  
20 to the testimony.

21 Do you know a Mr. Miller from ARRL?

22 THE WITNESS: No, I do not.

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1 JUDGE SIPPEL: All right, as far as  
2 I'm concerned he can come. He's a member of  
3 the public.

4 THE WITNESS: I don't know who Mr.  
5 Miller is.

6 MR. LYON: And Your Honor, let me  
7 just state for the record that Mr. Titus has  
8 no objection to Mr. Miller attending the  
9 hearing.

10 JUDGE SIPPEL: I have no control  
11 over the office that you're in. They can do  
12 whatever they can see in their best interest  
13 as far as the use of that office. But he's  
14 certainly welcome to come to Washington if he  
15 wants to sit in the courtroom.

16 MR. LYON: In the summertime.

17 JUDGE SIPPEL: In the summertime.  
18 We do have comfortable seats. Okay, let me  
19 ask you a couple of questions, okay, and then  
20 that's going to be it, Mr. Schurman.

21 I want to go back again to this  
22 Exhibit 7. That's your alert?

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1 THE WITNESS: Yes sir.

2 JUDGE SIPPEL: The more I read this  
3 to myself, the more I'm thinking that somebody  
4 who knew, who had a very good handle on law  
5 enforcement language would frame it the way  
6 you did.

7 And my question is, did you get any  
8 assistance at all in drafting the language for  
9 Exhibit 7?

10 THE WITNESS: No, Your Honor, other  
11 than reading the Seattle Police database blog.  
12 It was reading that language that helped me  
13 formulate this language. But it's my own  
14 authorship.

15 JUDGE SIPPEL: Okay, okay, I guess  
16 maybe you watch a lot of Law & Order.

17 MS. LANCASTER: Your Honor, may I  
18 ask one more question on follow-up to what you  
19 just asked?

20 JUDGE SIPPEL: Sure.

21 REDIRECT EXAMINATION

22 BY MS. LANCASTER:

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1           Q     Mr. Schurman, would you look at  
2 Exhibit 5?

3           A     Yes, well wait a minute, 5.

4           Q     EB Exhibit 5.

5           A     Yes.

6           Q     Did you happen -- have you seen  
7 this before?

8           A     Yes, this is the report from the  
9 Seattle website that I used to draft that  
10 alert.

11                 JUDGE SIPPEL: And the date on that  
12 is what? The date on 5?

13                 THE WITNESS: On Exhibit 5 --

14                 JUDGE SIPPEL: Yes.

15                 THE WITNESS: -- the date is on  
16 July 8, 2004.

17                 JUDGE SIPPEL: July 8, 2004, and  
18 you're alert went out in 2006?

19                 THE WITNESS: Yes, I was not aware  
20 of this report prior to that.

21                 JUDGE SIPPEL: How did it come to  
22 your attention?

**NEAL R. GROSS**

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